IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 19.10.2006

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The Hon'ble Mr. Justice K.CHANDRU

W.P. No. 17690 of 2004

D.Pachaiammal .. Petitioner

vs.

1. The Tamil Nadu Electricity Board
Rep. by its Chairman
K.R.R. Maligai
800 Anna Salai
Chennai

2. The Chief Engineer (Personnel)
Tamil Nadu Electricity Board
K.R.R. Maligai
800 Anna Salai
Chennai

3. The Superintending Engineer
Dharmapuri Electricity Distribution Circle
Tamil Nadu Electricity Board
Dharmapuri .. Respondents

Petition filed under Article 226 of the Constitution of India seeking for issue of writ of Certiorarified Mandamus for the reasons as stated therein.

For Petitioner : Mr.A.Jenasenan
For Respondents : Ms.Yamuna Devi

O R D E R

This writ petition is filed praying for issuance of writ of Certiorarified Mandamus calling for the proceedings of the first respondent in Ref. No.010647/202/G8/G81/2002-4 dated 11.02.2004, quash the same and to direct the respondent to provide a suitable job to the petitioner's younger son, viz., D.Kumaran.

2. Originally, the petitioner filed a writ petition in W.P.No.23048 of 2001 directing the respondents to consider and grant employment to the petitioner's younger son on compassionate ground. The said writ petition was disposed of by this court, by order dated 10.9.2003 stating that the petitioner's representation dated 21.5.2000

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should be disposed of. The petitioner made representations dated 13.10.2003 and 29.11.2003 pursuant to the order passed by this court and considering the said representations, the impugned order dated 11.02.2004 came to be passed by the first respondent.

3. The writ petitioner, in her representations, mainly relied upon the order of the Government in G.O.Ms.No.134 Labour and Employment (G.I) Department dated 22.10.1998. In that order, the term 'near relative' available for providing employment assistance scheme on compassionate ground was expanded and it includes unmarried brother and married sister of the unmarried deceased Government servant. The petitioner was informed by the first respondent that the said expanded definition of the term 'near relative' as found in the G.O., was not adopted by the Electricity Board and, therefore, the request of the petitioner cannot be granted. The petitioner was also informed that her husband B.Duraisamy, who was employed as a Wireman in the Tamil Nadu Electricity Board, expired on 20.11.1994 and after his death, her elder son, by name, D.Thiagarajan, was appointed as Helper on 01.02.1996 on compassionate ground. Unfortunately, the said Thiagarajan expired on 31.01.2000. In fact, the petitioner got the terminal benefits due to the death of her husband earlier and later on, due to the death of her elder son also. It was, thereafter, the petitioner made a representation to the respondent Board to appoint her younger son, by name, D.Kumaran, and the same was rejected by the Board on the ground that there is no provision to give employment assistance to the petitioner's younger son. It is against this order, the petitioner has preferred the present writ petition.

4. The writ petition was admitted on 28.6.2004 and notice was ordered. When the Miscellaneous Petition came up for hearing, with the consent of the parties, the main writ petition itself was taken up for disposal.

5. I have heard the arguments of Mr.A.Jenasenan, learned counsel appearing for the writ petitioner and Ms.Yamuna Devi, learned counsel appearing for the respondent Board and perused the records.

6. It must be stated here that employment assistance programme on compassionate ground is based upon the scheme framed by the respective Departments or Corporations or Statutory bodies and it has been held by the Supreme Court that such a scheme is an exception to Articles 14 and 16 of the Constitution of India. Therefore, any right or otherwise flows only from the said scheme. If the petitioner is not able to show any right flowing from the scheme, undoubtedly, this Court cannot grant any relief to the petitioner in terms of the scheme. In the present case, the petitioner wants to have the expanded benefit under the scheme. On the unfortunate death of her husband, her elder son was given employment and now, the petitioner seeks employment to her younger son on the death of her elder son. Such a succession is neither contemplated in the Rules nor there is any guarantee given under the Constitution to have a line of succession in public employment.

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When the definite stand of the respondent Board is that they have not adopted the expanded definition made by the Government in G.O.Ms.No.134 Labour and Employment (G.I) Department dated 22.10.1998, this Court cannot compel the respondent Board to modify the scheme as it relates to the realm of policy. Therefore, the impugned order is not suffering from any infirmity or illegality warranting interference by this Court.

7. In the light of the above, the writ petition fails and the same shall stand dismissed. However, there will be no order as to costs. In view of the same, W.P.M.P.No.21038 of 2004 also stands dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Chairman,
   Tamil Nadu Electricity Board
   K.R.R. Maligai
   800 Anna Salai
   Chennai

2. The Chief Engineer (Personnel)
   Tamil Nadu Electricity Board
   K.R.R. Maligai
   800 Anna Salai
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3. The Superintending Engineer
   Dharmapuri Electricity Distribution Circle
   Tamil Nadu Electricity Board
   Dharmapuri

+ 1 CC To Mr. A.Jenasenan, Advocate SR NO. 49175

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